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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,101	01/11/2002	Keith A. Ranieri	FIRS-2994	2867
5409 7590 11/07/2008 SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110				
EXAMINER				
LEIVA, FRANK M				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
11/07/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/046,101

**Applicant(s)**

RANIERE, KEITH A.

**Examiner**

FRANK M. LEIVA

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-80 and 93-164 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-80 and 93-164 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 August 2008 has been entered.

### ***Acknowledgements***

2. The examiner acknowledges amendments to claims 1, 22, 41, 62, 93, 105, 124 and 136. in applicant's submission filed 19 August 2008.

### ***Response to Arguments***

3. Applicant's arguments, see remarks, filed 19 August 2008, with respect to the rejection(s) of claim(s) 1-80 and 93-164 under 35 U.S.C. §103(a) have been fully considered and are persuasive in view of the current amendment. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Weiss, Walker and OFFICIAL NOTICE.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 1-21, 26-34, 37, 41-61, 66-74, 77, 93-104, 109117, 120, 124-135, 140-148, 151 and 155-159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss (US 6,511,377 B1) and further in view of OFFICIAL NOTICE.**

**6. OFFICIAL NOTICE;** It is a well-known fact amongst casino operators to calculate the house earnings in terms of the casino "handle", (handle; meaning the amount of money played per day), and the average "hold", (hold; meaning the average percentage take of a game within 10,000 plays). When a casino operator calculates the houses average to set their machines, included in that number is the amount of money spent on the casino including but not limited to all operating cost, all salaries and of course marketing. The part of marketing that concerns this application is the comps calculation; which are dependent on the player's amount of play. If the casino realizes that it need to hold 6% of the houses play; if the comp point vs. cash equals 0.5% payback, the casino will set their games to and average 6.5% hold to offset the payback of the comp point system. Also the comp point system is calculated to have an actual cash value in which if the player decides to get cash back the system would give the player a rate of return different from cash as it would for gifts and services. In 2000, Arizona Charlie's Casino in Las Vegas Nevada, implemented a gift point system in partnership with Mervins Federated Stores to redeem gift points for product value at a rate of 1000 points per \$1.00 of store goods. Whereas in the casino the cash value trade was 2000 points per \$1.00 cash. As for the agreement with Mervins the examiner was not aware of the specifics, but it is obvious that it would benefit all parties involved, the casino, the store and the player.

**7. Regarding claims 1, 2 7 8, 41-42, 47-48, 93, 95-96, 124, 126-127 and 155;**  
Weiss discloses:

An entrance-exchange structure, comprising: at least one player's initial betting capital; scrip; and a game of uncertain outcome adapted to be played by at least one player, (col. 3:40-56); wherein a house is adapted to pay a player of the at least one

player a takehome in a currency for a win of the game of uncertain outcome by the player based on betting by the player of the at least one player's initial betting capital, wherein the takehome is the actual amount of the currency received from the game of uncertain outcome owed to the player from entering the game of uncertain outcome, and wherein the currency is selected from the group consisting of cash plus scrip and scrip, (col. 3:40-67, 14:9-11 and 20:34-38), where all winnings and accumulated scrip can be deposited in the player's account and redeemed for currency, gifts and services.

Wherein at least one vendor exists such that the at least one vendor is selected from the group consisting of a house vendor, N outside vendors such that N is at least 1, and the house vendor plus the N outside vendors; (col. 20:19-38) where there is a plurality of vendors in the casino establishments some of which are house vendors such as hotel services and others outside vendors such as restaurants and gift shops; wherein if the at least one vendor includes the house vendor, then a player may exchange a portion of the scrip at a scrip-to-items exchange rate  $E^{S \rightarrow I}_0$  for at least one item provided by the house vendor; (col. 4:21-32 and col. 26:3-6); and wherein if the at least one vendor includes the N outside vendors, then the player may exchange the scrip with the outside vendor  $V_i$  at a scrip-to-items exchange rate  $E^{S \rightarrow I}_i$  for at least one item provided by the outside vendor  $V_i$  such that i is selected from the group consisting of 1,2, ..., and N, and the outside vendor  $V_i$  may exchange the scrip with the house for cash at the scrip-to-cash exchange rate  $E^{S \rightarrow C}_i$  such that i is selected from the group consisting of 1,2, ..., and N, (col. 4:21-32 and col. 26:3-6) where the player can redeem player points for perquisite dollars at a different exchange rate than regular dollars to be used at house or outside vendors inside the casino establishment. It is also obvious to one of ordinary skill in the art to recognize that it is well-known in the art to discount meals and services to players who are redeeming their points for goods. It has been well practiced that a player will benefit from paying their meals with comp points rather than redeem them into cash to pay for a meal in the casino. The average rate of points to cash in any casino is about 1000 points for dollar where while the average meal for one guest would only cost 2000 points, a considerable benefit that the casino offers in

conjunction with the vendors to keep players in the casino instead of leaving with the dollars earned.

Wherein if the at least one vendor includes the N outside vendors, then N is at least 2 and  $E^{S \rightarrow I}_i$  is independent of i such that  $E^{S \rightarrow I}_i$  is constant, for  $i = 1, 2, \dots$ , and N, and wherein if the at least one vendor includes the N outside vendors, then N is at least 2 and  $E^{S \rightarrow C}_i$  is independent of i such that  $E^{S \rightarrow C}_i$  is constant, for  $i = 1, 2, \dots$ , and N, (col. 30:1-6), where the exchange rate is assigned a value the value independent to the number of vendors.

It is obvious to one of ordinary skill in the art at the time of applicant's invention to manipulate the value of the comps and the houses hold in order to benefit all participants of the economic circle. Upon the Official Notice it is obvious to one of ordinary skill that casino operators offer their players a method to gain value for their money and the equations for that calculation are necessary and part of a natural mathematical description of the system dependent mostly and not mentioned in the current application, on the range of earnings that the casino operators want for return.

**8. Regarding claims 3-6, 43-46, 94 and 125;** Weiss discloses wherein the at least one vendor consists of the house vendor; wherein the at least one vendor consists of the N outside vendors; wherein the at least one vendor consists of the house vendor plus the N outside vendors; and wherein if the at least one vendor includes the N outside vendors, then two or more outside vendors of the N outside vendors do not provide a same or essentially similar item or items in exchange for the scrip, (col. 20:19-38), where the establishment includes a series of house owned vendors and outside vendors, describing a plurality of vendors each having similar and different products and services.

**9. Regarding claims 9, 15, 49, 55, 97 and 128;** Weiss discloses wherein if the at least one vendor includes the N outside vendors then  $\Phi_{P,i} > 0$ , and wherein ( $\Phi_{P,i}$  is a percent profit for the player in relation to the outside vendor  $V_i$ , for  $i = 1, 2, \dots$ , and N, (col. 30:1-6 and col. 4:21-32) where the establishment is capable to set up the rate of

exchange to provide a degree of profit or enhanced entertainment value with the gained perquisites.

**10. Regarding claims 10-11, 16, 50-51, 56, 98-99 and 129-130;** Weiss discloses wherein if the at least one vendor includes the N outside vendors then  $\Phi_{H,i} > 0$ , and wherein  $(\Phi_{H,i})$  is a percent profit for the house in relation to the outside vendor  $V_i$ , for  $i = 1, 2, \dots$ , and N; and wherein if the at least one vendor includes the N outside vendors then  $\Phi_{V,i} > 0$ , and wherein  $\Phi_{V,i}$  is a percent profit for the outside vendor  $V_i$ , for  $i = 1, 2, \dots$ , and N, (col. 30:1-6) where it is obvious to one of ordinary skill to design a system of exchange that benefits the establishment and all its vendors house or outside. Businesses exist to create profit by providing entertainment services to the guests whereby the guest profits from.

**11. Regarding claims 12-13, 18-21, 26-27, 52-53, 58-61, 66-67, 100-101, 103-104, 109-110, 131-132, 134-135 and 140-141;** Weiss discloses wherein if the at least one vendor includes the N outside vendors, then the game of uncertain outcome is a positive sum game in relation to a subset of the N outside vendors; and wherein if the at least one vendor includes the N outside vendors, then the game of uncertain outcome is a positive participant game in relation to a subset of the N outside vendors, (col. 20 19-38), where the establishment contains house and outside vendors all of which participating in commerce according to the positive sum doctrine of business in which all participants have something to gain in the relationship.

**12. Regarding claims 14, 17, 28, 54, 57, 68, 102, 111, 133 and 142;** Weiss discloses wherein if the at least one vendor includes the N outside vendors then two and only two of  $\Phi_{P,i}$ ,  $\Phi_{V,i}$ , and  $\Phi_{H,i}$  are positive, wherein  $\Phi_{P,i}$  is a percent profit for the player in relation to the outside vendor  $V_i$ , wherein  $\Phi_{V,i}$  is a percent profit for the outside vendor  $V_i$ , and wherein  $\Phi_{H,i}$  is a percent profit for the house in relation to the outside vendor  $V_i$ , for  $i = 1, 2, \dots$ , and N, (col. 20:19-38 and col. 30:1-6), wherein all participants

of a commercial venture are in it to obtain profit and the amount of profit is governed by each participant's economic needs.

**13. Regarding claims 29, 69, 112 and 143;** Weiss discloses wherein the game of uncertain outcome is adapted for sequential betting by the player when the game of uncertain outcome is played by the player, wherein the takehome to the player from the house is adapted to provide the player with an expected takehome of C dollars of cash and S units of scrip for each dollar bet such that  $0 < C < 1$  and  $S > 0$ , (col. 3:40-56) where the player's betting is tracked and the takehome in perquisite, comps and dollar value points is calculated using the sequential betting of the player during the entire time in the establishment.

**14. Regarding claims 30, 70, 113 and 144;** Weiss discloses wherein S/C is constant, (col. 30:1-6) wherein the value for redemption is defined.

**15. Regarding claims 31, 71, 114 and 145;** Weiss discloses wherein the betting by the player comprises betting by cash, cash equivalent, bettable scrip, or a combination of thereof, (col. 3:27-39).

**16. Regarding claims 32, 72, 115 and 146;** Weiss discloses wherein the betting by the player comprises betting by bettable scrip, (col. 3:40-56).

**17. Regarding claims 33, 73, 116 and 147;** Weiss discloses wherein the bettable scrip is conditionally bettable, (col. 3:40-56), bettable according to the conversion points to dollars.

**18. Regarding claims 34, 74, 117 and 148;** Weiss discloses wherein the house comprises a casino, (col. 3:2-5).

**19. Regarding claims 37, 77, 120, 151 and 156-157;** Weiss discloses wherein the game of uncertain outcome comprises a casino game, wherein the participant comprises a player, (col. 3:2-5).

**20. Regarding claims 158-159;** Weiss discloses wherein the entrance comprises a placing of a bet, (col. 5:40-45), or a payment of a fee, (col. 12:11-15).

**21. Claims 22-25, 35-36, 38-40, 62-65, 75-76, 78-80, 105-108, 118-119, 121-123, 136-139, 149-150, 152-154 and 160-164 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss as applied to claims 1, 2, 41, 93, 124 and 155, above, and further in view of Walker 276'.**

**22. Regarding claims 22, 62, 65, 105 and 136;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein the house is adapted to guarantee that in the takehome the player cannot lose more than P percent of the player's initial betting capital, and wherein P is in a range of  $0 < P < 100$  by allowing conversion of scrip to cash equivalent to P percent of the player's initial betting capital, wherein the takehome is the actual amount of the currency received from the game of uncertain outcome owed to the player from entering the game of uncertain outcome, ( $\P$  [0164, 0173, 0175 and 0177]) where the casino guarantees the payer an average positive outcome according to the probabilities in 1/10,000 games played, where the player may lose a percentage of the original outcome that percentage being less than 100 percent, and the outcome to be a combination of cash and comps. It is obvious to one of ordinary skill in the art upon reading Walker 276', to try to give the player a guaranteed probability of outcome that is less than 100 percent in order for the casino operator to be able to gain from the exchange.

**23. Regarding claims 23, 63, 106 and 137;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein P does not exceed 50, (§ [00176-0180]), as discussed by Walker 276', the percentage value is arbitrary according to the houses wishes to keep the player in the house longer rather than shorter, nevertheless is a design choice.

**24. Regarding claims 24, 64, 107 and 138;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein the house is adapted to guarantee that the takehome of the player's initial betting capital must increase by at least Q percent, and wherein  $Q > 0$ , wherein the value of scrip is adjustable by the house to provide the increase by at least 0 percent, (§ [0022-0023, 0085, 0132] where the house guarantees the player a positive game outcome, that is an outcome larger than the initial wagering money.

**25. Regarding claims 25, 108 and 139;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a guarantee to the player; Walker 276' discloses wherein if at the least one vendor includes the house vendor then the house implements guaranteeing the Q percent by adjustment of a scrip-to-items exchange ratio  $E^{S \rightarrow I}_0$ . As described in Weiss (col. 30:1-6) and in addition the Walker 276' (§ [0022-0023]), it is obvious to one of ordinary skill in the art to deduce that if Weiss is going to guarantee earnings to the players, that Weiss would include the calculation of gratuities into the equation and adjust the rate of scrip to items so as not to make a hole in the houses gains and still giving the player a guaranteed earning.

**26. Regarding claims 35-36 75-76, 118-119 and 149-150;** Weiss discloses wherein the house comprises a computer casino; and wherein the player interacts with the computer casino over a data communication medium selected from the group consisting of an Internet, an Intranet, cable television network, a telephone network, a wide area network, a satellite network, a short wave radio network, and a combination thereof, (§ [0029-0030]) where Walker 276' introduces the use of the Internet as a method of

communication, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to create the very well-known "virtual casino", with the teachings of Weiss and Walker 276', that would predictably yield an Internet base casino with player tracking incentives and accumulated points redeemable in goods and services offered by the advertisement shown in the casino web page.

**27. Regarding claims 38-40, 78-80, 121-123, 152-154 and 161-162;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose all the other casino game embodiments available; Walker 276' discloses wherein the game of uncertain outcome includes an event selected from the group consisting of a lottery and a sporting event; wherein the game of uncertain outcome comprises a game of chance; and wherein the game of uncertain outcome comprises a game of skill, (¶ [0039]). It would have been obvious to one of ordinary skill in the art to apply Weiss invention to all of the well-known types of gaming machines in the casino establishment.

**28. Regarding claims 160, 163 and 164;** Weiss discloses all the limitations of claims 1, 2, 41, 93, 124 and 155, yet Weiss fails to disclose a trigger event; Walker 276' discloses where the at least one potential outcome comprises a win of the game; wherein the entrance comprises an action; and wherein the action satisfies one or more criteria, (¶ [0160-0161]). It would have been obvious to one of ordinary skill in the art to after reading Walker 276' to try introducing a trigger criteria to entice the player into participating in the entrance-exchange program, yielding the predictable result as described in Walker 276'.

**29. Examiner's Note:** Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully

consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

10/31/2008

/Scott E. Jones/

Primary Examiner, Art Unit 3714